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October 27, 2020

Via CERTIFIED MAIL – Return Receipt Requested

Managing Agent
Thompson Metal Fab, Inc.
3000 SE Hidden Way
Vancouver, WA 98661

Managing Agent
Thompson Metal Fab, Inc.
P.O. Box 5276
Vancouver, WA 98668

**Re: NOTICE OF INTENT TO SUE UNDER THE CLEAN WATER ACT AND
REQUEST FOR COPY OF STORMWATER POLLUTION PREVENTION PLAN**

Dear Managing Agent:

This letter is submitted on behalf of Columbia Riverkeeper, 407 Portway Ave, Suite 301, Hood River, OR 97031. This letter provides you with sixty days' notice of Columbia Riverkeeper's intent to file a citizen suit against Thompson Metal Fab, Inc. ("Thompson") under section 505 of the Clean Water Act ("CWA"), 33 U.S.C § 1365, for the violations described below. This letter also requests a copy of the complete and current stormwater pollution prevention plan ("SWPPP") required by Thompson's National Pollution Discharge Elimination System ("NPDES") permit.

Thompson was granted coverage under the previous iteration of Washington's Industrial Stormwater General Permit ("ISGP") issued by the Washington Department of Ecology ("Ecology") on December 3, 2014, effective January 2, 2015, which expired on December 31, 2019, under NPDES Permit No. WAR000252 (the "2015 Permit"). Thompson was granted coverage under the current iteration of the ISGP, issued by Ecology on November 20, 2019, effective January 1, 2020, and set to expire on December 31, 2024, and maintains the same permit number, WAR000252 (the "2020 Permit").

Thompson has violated and continues to violate the terms and conditions of the 2015 Permit and 2020 Permit (collectively, the "Permits") with respect to the operation of, and discharges of stormwater and pollutants from, its facility located at or near 3000 SE Hidden Way, Vancouver, Washington (the "facility"). The facility subject to this notice includes any contiguous or adjacent properties owned and/or operated by Thompson.

I. COLUMBIA RIVERKEEPER'S COMMITMENT TO PROTECTING A FISHABLE AND SWIMMABLE COLUMBIA RIVER.

Columbia Riverkeeper's mission is to restore and protect the water quality of the Columbia River and all life connected to it, from the headwaters to the Pacific Ocean. Columbia Riverkeeper is a non-profit organization with members who live, recreate, and work throughout the Columbia River basin, including near and downstream of Thompson's facility.

Threats facing the Columbia River are severe by any measure. *See Columbia River Basin State of the River Report for Toxics*, Environmental Protection Agency, Region 10 (January 2009) (available online at: <https://www.epa.gov/columbiariver/2009-state-river-report-toxics>). In fact, the vast majority of rivers and streams in Washington fail to meet basic state water quality standards for pollutants such as toxics and temperature. *See State of Washington 303(d) List* (available online at: <https://ecology.wa.gov/Water-Shorelines/Water-quality/Water-improvement/Assessment-of-state-waters-303d>). Water quality standards are designed to protect designated uses, including aquatic life, fishing, swimming, and drinking water.

Stormwater runoff is "one of the great challenges of water pollution control" and "is a principal contributor to water quality impairment of waterbodies nationwide." *See Urban Storm Management in the United States*, National Research Council (Oct. 15, 2008) (available online at: http://www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf). When rain sends runoff across streets, construction projects, and industrial facilities, the water picks up contaminants that are drained into waterways such as the Columbia River and its tributaries. To address this leading cause of water quality impairment, Columbia Riverkeeper invests significant time and resources in reducing pollutant loads from industrial, municipal, and construction stormwater sources.

This Notice of Intent to Sue Thompson is part of Columbia Riverkeeper's effort to improve water quality in the Columbia River Basin for purposes including swimming, habitat quality, and subsistence, recreational, and commercial fishing. Columbia Riverkeeper has serious concerns about the impacts of Thompson's operations and industrial stormwater discharges on the Columbia River. As discussed below, Thompson has repeatedly discharged contaminants in excess of the Permits' benchmarks while failing to implement the required corrective actions, failed to monitor and report stormwater discharges as required under the Permits, and failed to adopt and implement a SWPPP that satisfies the requirements of the Permits. Thompson's operations and stormwater discharges degrade water quality in the Columbia River Basin and may contribute to conditions that place the health of those who use the Columbia River at risk.

II. VIOLATIONS OF STANDARDS.

A. Violations of Water Quality Standards.

Condition S10.A of the Permits prohibits discharges that cause or contribute to violations of water quality standards. Water quality standards are the foundation of the CWA's and Washington's efforts to protect clean water. Water quality standards represent the U.S. Environmental Protection Agency's ("EPA") and Ecology's determination, based on scientific studies, of the thresholds at which pollution starts to cause significant adverse impacts on fish

and other beneficial uses. For each water body in Washington State, Ecology designates the “beneficial uses” that must be protected through the adoption of water quality standards.

A discharger must comply with both narrative and numeric water quality standards. WAC 173-201A-010; *see also* WAC 173-201A-510 (“No waste discharge permit can be issued that causes or contributes to a violation of water quality criteria . . .”). Narrative water quality standards provide legal mandates that supplement the numeric standards. Furthermore, narrative water quality standards apply with equal force, even when Ecology has established numeric water quality standards. Specifically, Condition S10.A of the Permits requires that Thompson neither cause nor contribute to violations of Washington’s water quality standards.

Thompson discharges industrial stormwater to the Columbia River via stormwater conveyance systems. Thompson’s stormwater discharges have elevated levels zinc, turbidity, and copper. *See* Table 1, below. These discharges cause and/or contribute to violations of water quality standards for zinc, turbidity, and copper, and aesthetic criteria in the Columbia River and have occurred each and every day during the last five years on which there was 0.1 inch or more of precipitation, and continue to occur. These water quality standards include those set forth in WAC 173-201A-200; -240; and -260(2).

Table 1: DMR Monitoring Data Reported by Thompson				
Monitoring Period	Discharge Point	Turbidity (units: NTU) Benchmark: 25	Zinc (units: µg/L) Benchmark: 117	Copper (units: µg/L) Benchmark: 14
1st Quarter 2015	1	4.8	68	10.55
	3	1.1	2.1	0
	4	1.4	21	2.8
	5	2.1	66	2.1
2nd Quarter 2015	1	4.2	31	11
	3	0.17	54	4.3
	4	0.72	52	8.6
	5	2.5	32	10
3rd Quarter 2015	1	2.3	12	4.4
	3	0.54	1.1	<0.5
	4	2.4	8.3	0.96
	5	3.3	880	4.3
4th Quarter 2015	1	2.5	62	2.3
	3	0.64	0	0
	4	10	18	3.7
	5	2.4	740	3.3
1st Quarter 2016	1	BD	47	23
	3	28	10	10
	4	25	45	9.3
	5	48	49	18
2nd Quarter 2016	1	ND	ND	ND
	3	ND	ND	ND

	4	ND	ND	ND
	5	ND	ND	ND
3rd Quarter 2016	1	ND	ND	ND
	3	ND	ND	ND
	4	ND	ND	ND
	5	ND	ND	ND
4th Quarter 2016	1	12	22	10
	3	2	4.0	3.9
	4	11	18	5.5
	5	21	94	8.9
1st Quarter 2017	1	5.5	46	11
	3	1.2	2.4	0.93
	4	6.9	37	4.6
	5	2.3	59	3.4
2nd Quarter 2017	1	5.6	17	7.9
	3	1.2	1.9	0.76
	4	11	22	6.1
	5	0.66	82	8.4
3rd Quarter 2017	1	CA	65	10
	3	1.2	CA	BD
	4	CA	CA	CA
	5	4.6	3,000	6.8
4th Quarter 2017	1	CA	43	3.4
	3	0.68	CA	0.54
	4	CA	CA	CA
	5	2.3	1,100	54
1st Quarter 2018	1	CA	CA	4.1
	3	0.99	CA	0.71
	4	CA	CA	CA
	5	35	20	2.6
2nd Quarter 2018	1	ND	ND	ND
	3	ND	ND	ND
	4	ND	ND	ND
	5	ND	ND	ND
3rd Quarter 2018	1	ND	ND	ND
	3	ND	ND	ND
	4	ND	ND	ND
	5	ND	ND	ND
4th Quarter 2018	1	CA	CA	10
	3	3.1	CA	CA
	4	CA	CA	CA
	5	4.6	1,300	280
1st Quarter 2019	1	CA	CA	15
	3	9.4	CA	CA
	4	CA	CA	CA

	5	12	350	10
2nd Quarter 2019	1	ND	ND	ND
	3	ND	ND	ND
	4	ND	ND	ND
	5	ND	ND	ND
3rd Quarter 2019	1	M	M	1.7
	3	2.3	M	M
	4	M	M	M
	5	1.8	17	1.3
4th Quarter 2019	1	CA	CA	8.7
	3	6.4	CA	CA
	4	CA	CA	CA
	5	7.9	1,450	5.8
1st Quarter 2020	1	CA	CA	5.6
	3	1.6	CA	CA
	4	CA	CA	CA
	5	4.6	565	3.4
2nd Quarter 2020	1	2.5	CA	3.8
	3	7.8	855	CA
	4	77	95	12
	5	2.2	260	1.8

Monitoring results shown in **Bold** exceed the Permits' benchmarks

"CA" indicates DMR represented facility was at consistent attainment

"ND": indicates DMR represented facility had no discharge during monitoring period

"M": indicates DMR represented monitoring is conditional

"BD": indicates DMR represented that result was below detection level for lab analysis

B. Violations of Permitting Standards.

Condition S10.C of the Permits requires Thompson to apply all known and reasonable methods of pollution prevention, control, and treatment ("AKART") to all discharges, including preparing and implementing an adequate SWPPP and best management practices ("BMPs"). Thompson has violated and continues to violate this condition by failing to apply AKART to its discharges by, among other things, failing to implement an adequate SWPPP and BMPs as evidenced by the elevated levels of pollutants in its discharge indicated in Table 1 above and as described below. These violations have occurred on each and every day during the last five years and continue to occur every day.

III. STORMWATER POLLUTION PREVENTION PLAN VIOLATIONS.

Columbia Riverkeeper hereby provides notice, based upon information and belief, that Thompson has not developed and implemented a SWPPP that complies with the requirements of the Permits. The extensive violations of the Permits and the ongoing discharges of polluted industrial stormwater documented in the publicly available records indicate that Thompson is not fully implementing a SWPPP that includes adequate BMPs and that otherwise includes all of the

required SWPPP components. The violations of the Permits' SWPPP provisions described below have occurred each and every day over the last five years and continue to occur each day.

Condition S3.A of the Permits requires Thompson to develop and implement a SWPPP as specified in the Permits and to update the SWPPP as necessary to maintain compliance with the Permits. Conditions S3.A.2 of the 2015 Permit and S3.A.1 of the 2020 Permit require the SWPPP to specify the BMPs necessary to provide AKART and ensure that discharges do not cause or contribute to violations of water quality standards. On information and belief, Thompson violated these requirements of the Permits by failing to prepare a SWPPP that includes AKART BMPs, BMPs necessary to meet state water quality standards, and that is otherwise fully consistent with the Permits, by failing to fully implement a SWPPP, and by failing to update a SWPPP as necessary.

On information and belief, the SWPPP fails to satisfy the requirements of Condition S3 of the Permits because it does not adequately describe the necessary BMPs. Condition S3.B.4 of the Permits requires that the SWPPP include a description of the BMPs that are necessary for the facility to eliminate or reduce the potential to contaminate stormwater. Condition S3.B.4 of the Permits requires that the SWPPP detail how and where the selected BMPs will be implemented. Condition S3.A.3 of the 2015 Permit and Condition S3.A.2 of the 2020 Permit require that the SWPPP include BMPs consistent with approved stormwater technical manuals (or document how stormwater BMPs included in the SWPPP are demonstratively equivalent to the practices contained in the approved stormwater technical manuals, including the proper selection, implementation, and maintenance of all applicable and appropriate BMPs). Thompson's SWPPP does not comply with these requirements because it does not adequately describe and explain in detail the BMPs selected, does not include BMPs consistent with approved stormwater technical manuals, and/or does not include BMPs that are demonstratively equivalent to approved BMPs with documentation of BMP adequacy.

Thompson's SWPPP fails to satisfy the requirements of Condition S3.B.1 of the Permits because it fails to include a site map that includes all required components. The SWPPP does not comply with Condition S3.B.1 of the 2015 Permit because it does not include a site map that identifies: the scale or include relevant distances between significant structures and drainage systems; significant features; the stormwater drainage and discharge structures; the stormwater drainage areas for each stormwater discharge point off-site with a unique identifying number for each discharge point; each sampling location with a unique identifying number; paved areas and buildings; areas of pollutant contact associated with specific industrial activities; conditionally approved non-stormwater discharges; surface water locations; areas of existing and potential soil erosion; vehicle maintenance areas; and lands and waters adjacent to the site that may be helpful in identifying discharge points or drainage routes. The SWPPP does not comply with Condition S3.B.1 of the 2020 Permit because it does not include a site map that identifies: the scale or includes relative distances between significant structures and drainage systems; size of the property in acres; location and extent of all buildings, structures and all impervious surfaces; direction of the stormwater flow; locations of all structural source control BMPs and all receiving water in the immediate vicinity of the facility; conditionally approved non-stormwater discharges; areas of existing and potential soil erosion that could result in the discharge of a significant amount of turbidity, sediment, or other pollutants; locations of all stormwater

conveyances including ditches, pipes, catch basins, vaults, ponds, swales, etc.; locations of actual and potential pollutant sources; locations of all stormwater monitoring points; stormwater drainage areas for each stormwater discharge point off site (including discharges to groundwater); locations of stormwater inlets and outfalls with a unique identification number for each sampling point and discharge point, indicating any that are identified as substantially identical, and identify, by name, any other party other than Thompson that owns any stormwater drainage or discharge structures; combined sewers or MS4s and where stormwater discharges to them; locations of fueling and vehicle maintenance areas; and locations and sources of run-on to the site from adjacent properties that may contain pollutants.

Thompson's SWPPP fails to satisfy the requirements of Condition S3.B.2 of the Permits because it fails to include a facility assessment that includes: a description of the facility; an inventory of facility activities and equipment that contribute to or have the potential to contribute any pollutants to stormwater; and an inventory of materials that contribute to or have the potential to contribute pollutants to stormwater.

The SWPPP does not comply with Condition S3.B.2.a of the Permits because it does not include a facility description that describes: the industrial activities conducted at the site; the general layout of the facility including buildings and storage of raw materials, the flow of goods and materials through the facility; and the regular business hours, and the seasonal variations in business hours or industrial activities.

Thompson's SWPPP fails to comply with Condition S3.B.2.b of the Permits because it does not include an inventory of industrial activities that identifies all areas associated with industrial activities that have been or may potentially be sources of pollutants. The SWPPP does not identify all areas associated with loading and unloading of dry bulk materials or liquids; outdoor storage of materials or products; outdoor manufacturing and processing; onsite dust or particulate generating processes; on-site waste treatment, storage, or disposal; vehicle and equipment fueling, maintenance, and/or cleaning; roofs or other surfaces exposed to air emissions from a manufacturing building or a process area; and roofs or other surfaces composed of materials that may be mobilized by stormwater, as required by these permit conditions.

Thompson's SWPPP does not comply with Condition S3.B.2.c of the Permits because it does not include an adequate inventory of materials. The SWPPP does not include: an inventory of materials that lists the types of materials handled at the site that potentially may be exposed to precipitation or runoff and that could result in stormwater pollution; a short narrative for each material describing the potential for pollutants to be present in stormwater discharge that is updated when data becomes available to verify the presence or absence of pollutants; or a narrative description of any potential sources of pollutants from past activities, materials, and spills that were previously handled, treated, stored, or disposed of in a manner to allow ongoing exposure to stormwater, as required. The SWPPP also does not include the method and location of on-site storage or disposal of such materials and a list of significant spills and significant leaks of toxic or hazardous pollutants, as the Permits require.

Thompson's SWPPP does not comply with Condition S3.B.3 of the Permits because it does not identify specific individuals by name or title whose responsibilities include SWPPP development, implementation, maintenance, and modification.

Condition S3.B.4 of the Permits requires that permittees include in their SWPPPs, and implement, certain mandatory BMPs unless site conditions render the BMP unnecessary, infeasible, or an alternative and equally effective BMP is provided. Thompson is in violation of these requirements because it has failed to include in its SWPPP, and implement, the mandatory BMPs required by the Permits, as detailed below.

Thompson's SWPPP does not comply with Condition S3.B.4.b.i of the Permits because it does not include required operational source control BMPs in the following categories: good housekeeping (including definition of ongoing maintenance and cleanup of areas that may contribute pollutants to stormwater discharges, and a schedule/frequency for each housekeeping task); preventive maintenance (including BMPs to inspect and maintain stormwater drainage and treatment facilities, source controls, treatment systems, and plant equipment and systems, and the schedule/frequency for each task); spill prevention and emergency cleanup plan (including BMPs for preventing spills that can contaminate stormwater; for material handling procedures; storage requirements; cleanup equipment and procedures; and spill logs); employee training (including an overview of what is in the SWPPP, how employees make a difference in complying with the SWPPP, spill response procedures, good housekeeping, maintenance requirements, material management practices, how training will be conducted, the frequency/schedule of training, and a log of the dates on which specific employees received training); and inspections and recordkeeping (including documentation of procedures to ensure compliance with permit requirements for inspections and recordkeeping, including identification of personnel who conduct inspections, provision of a tracking or follow-up procedure to ensure that a report is prepared and appropriate action taken in response to visual monitoring, definition of how Thompson will comply with signature and record retention requirements, certification of compliance with the SWPPP and Permit, and all inspection reports completed by Thompson).

Thompson's SWPPP does not comply with Condition S3.B.4.b.i.7 of the Permits because it does not include measures to identify and eliminate the discharge of process wastewater, domestic wastewater, noncontact cooling water, and other illicit discharges.

Thompson's SWPPP does not comply with Condition S3.B.4.b.ii of the Permits because it does not include required structural source control BMPs to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff. Thompson's SWPPP does not comply with Condition S3.B.4.b.iii of the Permits because it does not include treatment BMPs as required.

Thompson's SWPPP fails to comply with Condition S3.B.4.b.v of the Permits because it does not include BMPs to prevent the erosion of soils or other earthen materials and prevent off-site sedimentation and violations of water quality standards.

Thompson's SWPPP fails to satisfy the requirements of Condition S3.B.5 of the Permits because it fails to include an adequate stormwater sampling plan. The SWPPP does not include a

sampling plan that: identifies points of discharge to surface waters, storm sewers, or discrete ground water infiltration locations; documents why any discharge point is not sampled; identifies each sampling point by its unique identifying number; identifies staff responsible for conducting stormwater sampling; specifies procedures for sample collection and handling; specifies procedures for sending samples to the a laboratory; identifies parameters for analysis, holding times and preservatives, laboratory quantization levels, and analytical methods; or specifies the procedure for submitting the results to Ecology.

IV. MONITORING AND REPORTING VIOLATIONS.

A. Failure to Collect Quarterly Samples.

Condition S4.B of the Permits requires Thompson to sample its stormwater discharge once during every calendar quarter. Conditions S3.B.5.b and S4.B.2.c of the 2015 Permit and Conditions S3.B.5.b and S4.B.3 of the 2020 Permit require Thompson to collect stormwater samples at each distinct point of discharge offsite, except for substantially identical outfalls, in which case only one of the substantially identical outfalls must be sampled. These conditions set forth sample collection criteria, but require the collection of a sample even if the criteria cannot be met. Thompson has violated these permit conditions each and every time during the last five years it has failed to collect stormwater samples in compliance with the requirements of the Permits, including but not limited to, the instance described below. Each failure to collect a sample of a required pollutant is a separate violation of the CWA.

Thompson violated these requirements by failing to collect stormwater samples at any of its discharge points during the second and third quarters of 2016, the second and third quarters of 2018, and the second quarter of 2019.

Thompson also violated and continues to violate these conditions because the facility discharges from distinct points of discharge that are not monitored and that are not substantially identical to the outfalls that are monitored by Thompson. These violations have occurred and continue to occur each and every quarter during the last five years that Thompson was and is required to sample its stormwater discharges, including the quarters in which it collected stormwater discharge samples from some, but not all, points of discharge. These violations will continue until Thompson commences monitoring all points of discharge that are not substantially identical.

B. Failure to Analyze Quarterly Samples.

Conditions S5.A and S5.B of the Permits require Thompson to analyze all quarterly stormwater samples for turbidity, pH, oil sheen, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction). Under the "consistent attainment" provisions of Condition S4.B.6 of the 2015 Permit, sample analysis for a parameter (other than oil sheen) may be discontinued for a period of three years following eight consecutive quarters where samples complied with the applicable benchmark value for that parameter. Under the "consistent attainment" provisions of Condition S4.B.7 of the 2020 Permit, sample analysis for a parameter (other than oil sheen) may be reduced to one annual discharge in the fourth quarter for a period of three years following

eight consecutive quarters where samples complied with the applicable benchmark value for that parameter. Under Condition S4.B.6.b.i of the 2015 Permit and Condition S4.B.7.b.i of the 2020 Permit, the tally of consecutive quarterly samples is reset to zero where Thompson fails to collect a discharge sample in a quarter where a discharge occurred during normal working hours and in safe conditions. Thompson violated these requirements by failing to analyze discharge samples for the parameters as identified in Table 2 below, which includes instances where Thompson improperly claimed analysis was not required under the Permits' consistent attainment provisions.

Table 2: Pollutant Parameters Not Analyzed		
Monitoring Period	Discharge Point(s)	Parameters Not Analyzed
2nd Quarter 2016	1, 3, 4, 5	turbidity, pH, oil sheen, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
3rd Quarter 2016	1, 3, 4, 5	turbidity, pH, oil sheen, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
3rd Quarter 2017	1	Turbidity
	3	total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	4	turbidity, pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	5	pH, total lead, and petroleum hydrocarbons (diesel fraction)
4th Quarter 2017	1	turbidity
	3	total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	4	turbidity, pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	5	pH, total lead, and petroleum hydrocarbons (diesel fraction)
1st Quarter 2018	1	turbidity, pH, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	3	pH, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	4	turbidity, pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	5	pH, total lead, and petroleum hydrocarbons (diesel fraction)
2nd Quarter 2018	1, 3, 4, 5	turbidity, pH, oil sheen, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
3rd Quarter 2018	1, 3, 4, 5	turbidity, pH, oil sheen, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
4th Quarter 2018	1	turbidity, pH, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	3	pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	4	turbidity, pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)

	5	pH, total lead, and petroleum hydrocarbons (diesel fraction)
1st Quarter 2019	1	turbidity, pH, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	3	pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	4	turbidity, pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	5	pH, total lead, and petroleum hydrocarbons (diesel fraction)
2nd Quarter 2019	1, 3, 4, 5	turbidity, pH, oil sheen, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
3rd Quarter 2019	1	turbidity, pH, oil sheen, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	3	pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	4	turbidity, pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	5	pH, total lead, and petroleum hydrocarbons (diesel fraction)
4th Quarter 2019	1	turbidity, pH, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	3	pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	4	turbidity, pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	5	pH, total lead, and petroleum hydrocarbons (diesel fraction)
1st Quarter 2020	1	turbidity, pH, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	3	pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	4	turbidity, pH, total copper, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	5	pH, total lead, and petroleum hydrocarbons (diesel fraction)
2nd Quarter 2020	1	pH, total zinc, total lead, and petroleum hydrocarbons (diesel fraction)
	3	pH and total copper

V. CORRECTIVE ACTION VIOLATIONS.

A. Failure to Implement Level One Corrective Actions.

Condition S8.B of the Permits requires Thompson take specified action, called a “Level One Corrective Action,” each time quarterly stormwater sample results exceed any of the benchmark values described in Conditions S5.A and S5.B. Condition S8.A of the 2020 Permit requires Thompson to implement any Level One Corrective Action required by the 2015 Permit.

For a Level One Corrective Action, Condition S8.B.1.a of the Permits requires Thompson to “[c]onduct an inspection to investigate the cause” of the benchmark exceedance. Additionally,

for a Level One Corrective Action, Condition S8.B of the Permits requires Thompson to: (1) review the SWPPP for the facility and ensure that it fully complies with Condition S3 of the Permits and contains the correct BMPs from the applicable Stormwater Management Manual; (2) make appropriate revisions to the SWPPP to include additional operational source control BMPs with the goal of achieving the applicable benchmark values in future discharges and sign and certify the revised SWPPP in accordance with the Permits; and (3) summarize the Level One Corrective Action in the Annual Report required under Condition S9.B of the Permits. Condition S8.B of the Permits requires Thompson to implement the revised SWPPP as soon as possible, and no later than the DMR due date for the quarter the benchmark was exceeded.

Condition S5.A and Table 2 of the Permits establish the following applicable benchmarks: turbidity 25 NTU; total copper 14 µg/L; and total zinc 117 µg/L.

Thompson violated the Level One Corrective Action requirements of the Permits described above by failing to conduct a Level One Corrective Action in accordance with permit conditions, including the required investigation, the required review, revision, and certification of the SWPPP, the required implementation of additional BMPs, and the required summarization in the annual report each time in the past five years that quarterly stormwater sampling results were greater than a benchmark, including the benchmark excursions during that time that are listed in Table 1 in Section II.A of this letter.

These benchmark excursions are based upon information currently available to Columbia Riverkeeper from Ecology's publicly available records. Columbia Riverkeeper provides notice of its intent to sue Thompson for failing to comply with all of the Level One Corrective Action requirements described above each time during the last five years that quarterly stormwater sampling results were greater than a benchmark.

B. Failure to Implement Level Two Corrective Actions.

Condition S8.C of the Permits requires Thompson take specified action, called a "Level Two Corrective Action," each time quarterly stormwater sample results exceed any of the benchmark values described in Conditions S5.A and S5.B for any two quarters in a calendar year. Condition S8.A of the 2020 Permit requires that Thompson implement any Level Two Corrective Action required by the 2015 Permit.

As described by Condition S8.C of the Permits, a Level Two Corrective Action requires Thompson: (1) review the SWPPP for the facility and ensure that it fully complies with Condition S3 of the Permits; (2) make appropriate revisions to the SWPPP to include additional structural source control BMPs with the goal of achieving the applicable benchmark value(s) in future discharges and sign and certify the revised SWPPP in accordance with Condition S3 of the Permits; and (3) summarize the Level Two Corrective Action (planned or taken) in the Annual Report required under Condition S9.B of the Permits. Condition S8.C.4 of the Permits requires that Thompson implement the revised SWPPP according to condition S3 of the Permits and the applicable stormwater management manual as soon as possible, but no later than August 31 of the following year.

The Permits establish the benchmarks applicable to Thompson identified in Section V.A of this notice of intent to sue letter.

Thompson violated the requirements of the Permits described above by failing to conduct a Level Two Corrective Action in accordance with permit conditions—including the required review, revision, and certification of the SWPPP; the required implementation of additional BMPs to ensure that all points of discharge from the facility meet benchmarks (not just the sampled point of discharge), including additional structural source control BMPs; and the required summarization in the annual report—each time since and including 2015 that Thompson's quarterly stormwater sampling results were greater than a benchmark for any two quarters during a calendar year. As indicated in Table 1 in Section II.A of this letter, these violations include, but are not limited to, Thompson's failure to fulfill these obligations triggered by the exceedances in 2015 for total zinc, in 2017 for total zinc, and in 2019 for total zinc.

The benchmark excursions identified in Section II.A, Table 1, of this letter are based upon information currently available to Columbia Riverkeeper from Ecology's publically available records. Columbia Riverkeeper provides notice of its intent to sue Thompson for failing to comply with all of the Level Two Corrective Action requirements each and every time quarterly stormwater sample results exceeded an applicable benchmark value for any two quarters during a calendar year, including any such excursions that are not reflected in Table 1 above, since and including 2015.

Condition S8.C.4.e of the Permits states, "For the year following the calendar year the Permittee triggered a Level 2 Corrective Action, benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 Corrective Actions." These conditions do not waive Thompson's duty to complete any Level Two or Three Corrective Actions because Thompson failed to develop and implement previously triggered Level Two Corrective Actions pursuant to Condition S8.C of the Permits.

VI. ANNUAL REPORT VIOLATIONS.

Condition S9.B of the 2015 Permit and Condition S9.C of the 2020 Permit require Thompson to submit complete and accurate annual reports to Ecology no later than May 15 of each year using Ecology's Water Quality Permitting Portal. These conditions require that the annual reports include corrective action documentation required under Conditions S8.B through S8.D and, if corrective action is not complete, Thompson must describe the status of any outstanding corrective actions. Each annual report must: (1) identify the condition triggering the need for corrective action review; (2) describe the problem(s) and identify the dates they were discovered; (3) summarize any Level One, Two, and/or Three corrective actions completed during the previous calendar year and include the dates of completion; and (4) describe the status of any Level Two or Three corrective actions triggered during the previous calendar year and identify the date of expected completion. Thompson must also retain a copy of all annual reports onsite. Thompson violated the requirements of the Permits described above by failing to timely submit complete and accurate annual reports that include all of the required information for each monitoring year since and including 2015. The deficiencies include, but are not limited to, those identified below.

The annual report submitted for the 2015 monitoring year (due May 15, 2016) fails to identify any additional operational BMPs implemented as part of the two Level One Corrective Actions triggered for total zinc, fails to identify any additional structural BMPs to be implemented as part of the Level Two Corrective Action triggered for total zinc, and does not identify the conditions triggering these correction actions.

Thompson did not timely submit an annual report for the 2016 monitoring year (due May 15, 2017) that describes any additional operational BMPs implemented as part of the Level One Corrective Actions triggered for total zinc and for total copper in the 2016 monitoring year, that identifies the conditions triggering these correction actions, or that describes the completion or the status of the Level Two Corrective Action triggered for zinc in the 2015 monitoring year.

Thompson did not timely submit an annual report for the 2017 monitoring year (due May 15, 2018) that describes additional operational BMPs implemented as part of the two Level One Corrective Actions triggered for zinc, that describes additional operational BMPs implemented as part of the Level One Corrective Action triggered for copper, that identifies additional structural BMPs to be implemented as part of the Level Two Corrective Action triggered for total zinc, or that identifies the conditions triggering these correction actions.

Thompson did not timely submit an annual report for the 2018 monitoring year (due May 15, 2019) that describes any additional operational BMPs implemented as part of the Level One Corrective Actions triggered for total zinc, total copper, and turbidity, that identifies the conditions triggering these correction actions, or that describes the completion or the status of the Level Two Corrective Action triggered for zinc in the 2017 monitoring year.

The annual report submitted for the 2019 monitoring year (due May 15, 2020) fails to identify what parameter(s) corrective actions were triggered for, fails to identify any additional operational BMPs implemented as part of the two Level One Corrective Actions triggered for total zinc, fails to identify any additional operational BMPs implemented as part of the Level One Corrective Actions triggered for total copper, fails to identify any additional structural BMPs to be implemented as part of the Level Two Corrective Action triggered for total zinc, and does not identify the conditions triggering these correction actions.

VII. VIOLATIONS OF THE RECORDKEEPING REQUIREMENTS.

A. Failure to Record Information.

Condition S4.B.3 of the 2015 Permit and Condition S4.B.4 of the 2020 Permit require Thompson to record and retain specified information for each stormwater sample taken, including the sample date and time, a notation describing if Thompson collected the sample within the first 12 hours of stormwater discharge event, an explanation of why Thompson could not collect a sample within the first 12 hours of a stormwater discharge event, the sample location, method of sampling and preservation, and the individual performing the sampling. Condition S4.B.3 of the 2015 Permit also requires Thompson to record weather conditions. Upon information and belief, Thompson violated and violates these conditions because it failed to record each of these specified items for each sample taken during the last five years.

B. Failure to Retain Records.

Condition S9.C of the 2015 Permit and Condition S9.D of the 2020 Permit require Thompson to retain, for a minimum of five years, a copy of the Permits, a copy of Thompson's coverage letter, records of all sampling information, inspection reports including required documentation, any other documentation of compliance with permit requirements, all equipment calibration records, all BMP maintenance records, all original recordings for continuous sampling instrumentation, copies of all laboratory results, copies of all required reports, and records of all data used to complete the application for the Permits. Upon information and belief, Thompson is in violation of these conditions because it has failed to retain records of such information, reports, and other documentation during the last five years.

VIII. FAILURE TO REPORT PERMIT VIOLATIONS.

Condition S9.E of the 2015 Permit and Condition S9.F of the 2020 Permit require Thompson to take certain actions in the event that Thompson is unable to comply with any of the terms and conditions of the Permits which may endanger human health or the environment. In such circumstances, Thompson must immediately take action to minimize potential pollution or otherwise stop the noncompliance and correct the problem, and Thompson must immediately notify the appropriate Ecology regional office of the failure to comply. Thompson must then submit a detailed written report to Ecology, including specified details, within 5 days of the time Thompson became aware of the circumstances, unless Ecology requests an earlier submission.

Thompson has repeatedly violated these requirements, including each and every time during the last five years that Thompson failed to comply with corrective action requirements as described in Section V of this notice of intent to sue letter, each and every time during the last five years that Thompson discharged stormwater with concentrations of pollutants that are likely to cause or contribute to violations of water quality standards as described in Section II.A of this notice of intent to sue letter, and each and every time during the last five years that Thompson failed to collect and/or analyze discharge samples in accordance with the Permits' requirements as describe in Section IV of this notice of intent to sue letter. These violations may endanger human health or the environment.

IX. REQUEST FOR SWPPP.

Pursuant to Condition S9.F of the 2015 Permit and Condition S9.G of the 2020 Permit, Columbia Riverkeeper hereby requests that Thompson provide Columbia Riverkeeper a copy of, or access to, Thompson's SWPPP complete with all incorporated plans, monitoring reports, checklists, and training and inspection logs. The copy of the SWPPP and any other communications about this request should be directed to Brian Knutsen at the address below.

Should Thompson fail to provide the requested complete copy of, or access to, its SWPPP as required by Condition S9.F of the 2015 Permit and Condition S9.G of the 2020 Permit, Thompson will be in violation of those conditions, which violation shall also be subject to this Notice of Intent to Sue and any resulting lawsuit.

X. PARTY GIVING NOTICE OF INTENT TO SUE.

The full name, address, and telephone number of the party giving notice is:

Columbia Riverkeeper
407 Portway Ave, Suite 301
Hood River, OR 97031
(541) 399-5312

XI. ATTORNEYS REPRESENTING COLUMBIA RIVERKEEPER.

The attorneys representing Columbia Riverkeeper in this matter are:

Simone Anter, Staff Attorney
Columbia Riverkeeper
407 Portway Ave, Suite 301
Hood River, Oregon 97031
(541) 399-5312
simone@columbiariverkeeper.org

Brian A. Knutsen
Emma Bruden
Kampmeier & Knutsen, PLLC
1300 S.E. Stark Street, Suite 202
Portland, Oregon 97214
(503) 841-6515 (Knutsen)
(503) 719-5641 (Bruden)
brian@kampmeierknutsen.com
emma@kampmeierknutsen.com

XII. CONCLUSION.

The above-described violations reflect those indicated by the information currently available to Columbia Riverkeeper based on its review of the public record. These violations are ongoing. Columbia Riverkeeper intends to sue for all violations, including those yet to be uncovered and those committed after the date of this Notice of Intent to Sue.

Under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), Thompson is subject to a separate daily penalty assessment for each violation. The maximum daily penalty assessment for violations occurring after November 2, 2015 is \$55,800; the maximum daily penalty assessment for violations occurring on and before November 2, 2015 is \$37,500. 40 C.F.R. § 19.4. In addition to civil penalties, Columbia Riverkeeper will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 U.S.C. § 1365(a) and (d), and such other relief as is permitted by law. Also, Section 505(d) of the CWA, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs, including attorney's fees.


Columbia Riverkeeper believes that this NOTICE OF INTENT TO SUE sufficiently states grounds for filing suit. Columbia Riverkeeper intends, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against Thompson under Section 505(a) of the CWA for the violations described herein.

Columbia Riverkeeper is willing to discuss effective remedies for the violations described in this letter and settlement terms during the 60-day notice period. If you wish to

pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within ten (10) days of receiving this notice so that a meeting can be arranged and so that negotiations may be completed promptly. We do not intend to delay the filing of a complaint if discussions are continuing when the notice period ends. If you believe that any of the allegations in this notice of intent to sue letter are incorrect or based on incomplete information in the public record, please bring those facts to our attention.

Very truly yours,

KAMPMEIER & KNUTSEN, PLLC

By: 
Brian A. Knutsen

c. Simone Anter, Columbia Riverkeeper Staff Attorney

CERTIFICATE OF SERVICE

I, Emma Bruden, declare under penalty of perjury of the laws of Washington and the United States that I am counsel for Columbia Riverkeeper and that on October 27, 2020 I caused copies of the foregoing Notice of Intent to Sue Under the Clean Water Act and Request for Copy of Stormwater Pollution Prevention Plan to be served on the following by depositing them with the United States Postal Service, certified mail, return receipt requested, postage prepaid:

Managing Agent
Thompson Metal Fab, Inc.
3000 SE Hidden Way
Vancouver, WA 98661

John B. Rudi
Registered Agent for Thompson Metal Fab, Inc.
3000 SE Hidden Way, Bldg. 40
Vancouver, WA 98661

Managing Agent
Thompson Metal Fab Inc.
P.O. Box 5276
Vancouver, WA 98668

Administrator Andrew Wheeler
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave., N.W. (Mail Code 1101A)
Washington DC 20460

Director Laura Watson
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Regional Administrator Christopher W. Hladick
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue (Mail Code 21-B03)
Seattle, WA 98101



Emma Bruden, WSBA No. 56280